Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No's. 10-90 & 05-337
	)	
A National Broadband Plan For Our Future - High-Cost Universal Service Support	)	GN Docket No. 09-51

Initial Comments of the Utah Education Network
in response to
Connect America Fund NPRM (FCC 10-58)

Introduction

Utah Education Network (UEN), a state network for education, grew out of a University owned statewide microwave system created for distance learning, so successful that it was officially given responsibility as a state agency for providing statewide distance learning and then Internet access for all of education. Decades of problem solving have provided exhaustive experience in building primarily leased networks which span multiple service providers' areas of operation, urban and rural. Our connection to the research communities and the various organizations promoting broadband infrastructure deployment provides us with a unique perspective that we believe can be most instructive for the FCC.

UEN provides comments here for the FCC's consideration related to the individual subjects as listed in the Notice of Proposed Rulemaking and enumerated below.

"Today we seek comment on capping legacy high-cost support provided to incumbent telephone companies at 2010 levels, which would have the effect of creating an overall ceiling for the legacy high-cost program."

I, 2. We seek comment on how the Commission could implement such a cap. Alternatively, we invite other proposals that would ensure that the overall size of the high-cost fund stays at or below current levels. Should the Commission impose an overall cap on legacy high-cost support for incumbent LECs at 2010 levels?

Comment: UEN agrees that capping high-cost support at 2010 levels is prudent during this time of regulatory transition. We encourage the FCC to consider expanding Universal Service contributions to include all services, service providers, and products that may be purchased or leased by any entity while using Universal Service support of any kind. This conclusion is based a straight forward notion that any beneficiary of Universal Service support should both collect and contribute into the Universal Service Fund. We hope that the FCC obtains clarity in their related rulemaking proceedings sufficient to warrant USF contribution liability for all products and services supported by any USF program. Presuming no legal impediments, this should reduce the contribution factor dramatically while maintaining the fund at current levels.

Should the Commission impose a cap on each individual high-cost mechanism (to the extent each is not already capped) at 2010 levels?

Comment: No matter the outcome of transitioning High-Cost mechanisms to a Connect America Fund, each mechanism should be capped while improved mechanisms are developed and implemented.

Should the Commission freeze per-line support for each carrier at 2010 levels? For example, the Alliance for Rural CMRS Carriers/ proposed that incumbent LEC support amounts per line be capped at either March 2008 or March 2010 levels. We seek comment on this proposal.

Alternatively, should the commission freeze the total amount of support a carrier receives in a particular study area at 2010 levels?

Comment: UEN agrees that this proposed alternative cap may be necessary during the transitional period but does not believe that March 2008 levels would be appropriate. Capping at 2010 levels by study area would provide some stability for ILEC's during this time.

How would the Commission implement this proposal in conjunction with the reforms identified in the following paragraphs? In addition, what implications would this proposal have for other Commission rules, as such the Commission's current pricing rules, and should the implementation of this proposal be coordinated with any other regulatory actions?

Comment: Regarding other regulatory actions, UEN believes that the FCC's best hope for sensible and equitable distribution of CAF funds is to permit distribution of these funds through a mechanism similar to the E-rate program.

The success of the E-rate program offers irrefutable evidence of the value of consumer (applicant) driven deployment of broadband. As those of us working with the E-rate program can attest, accountability and transparency are inherent aspects of E-rate program funding and administration. The Unified Community Anchor Network (UCAN) proposals as described so far, provide the FCC an opportunity like none other to apply proven accountability processes and standards. Designating UCANs and subjecting the distribution of CAF to a more appropriate driving force, one defined by communities' needs, would go far to curb the perceived if not factual waste now inherent in the High-Cost programs. CAF could provide much needed funds for the high cost of capital construction for carriers, anchor institutions, research networks, higher education institutions, or other broadband providers, whom have been awarded contracts resulting from competitive procurement of broadband services or capacity. Factoring the actual broadband needs of communities into the distribution of CAF is a logical necessity not currently considered.

UEN agrees with the UCAN proposals wherein the need for network configuration, management, measurement, security, and access are likely best addressed by higher education institutions, research networks, and state or regional networks, in other words a UCAN entity.

2. Specific Steps To Cut Legacy High- Cost Support

3. As discussed in more detail below, the National Broadband Plan identifies several specific first steps that could reduce funding in the legacy high-cost support mechanisms and recommends that those savings be used to further the goals of universalizing broadband without increasing the overall size of the universal service fund. The National Broadband Plan recognizes that shifting funds could have transitional impacts and recommends that ''[a]s the FCC considers this policy shift, it should take into account the impact of potential changes in free cash flows on providers' ability to continue to provide voice service and on future broadband network deployment strategies.''

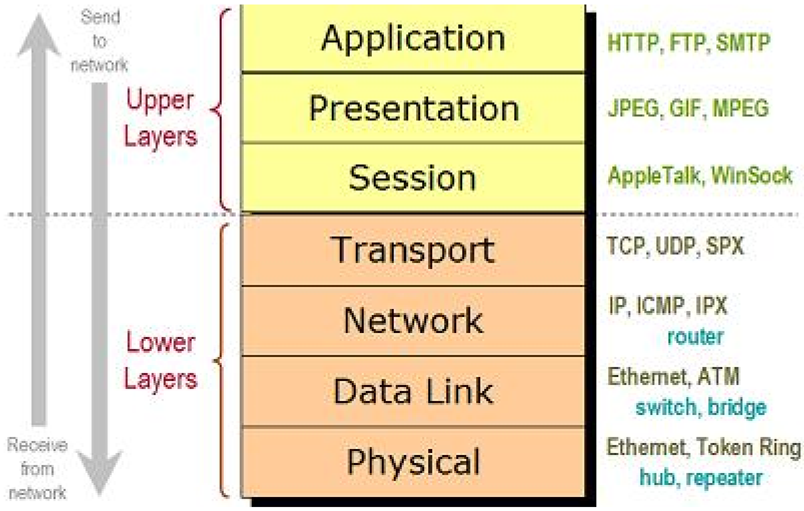
The intent of these proposals is to eliminate the indirect funding of broadband capable networks today through our legacy high-cost programs, which is occurring without transparency or accountability for the use of funds to extend broadband service. We seek comment on the timing of implementing such reforms in conjunction with the creation of a more efficient and targeted framework that will provide support for broadband and voice. We encourage commenters to address when each rule change should be implemented and how specific reforms should be sequenced to provide regulatory clarity for ongoing private sector investment.

Comment: UEN applauds the FCC in their desire to reduce or eliminate support for legacy services that do not promote effective and efficient broadband deployment by carriers. Beyond our comments above regarding a UCAN initiative, we agree that timing of changes must carefully consider the existing framework. We propose a three to five year time period during which current beneficiaries are provided sufficient time to revise pricing, service offerings, and perhaps even business models.

4. In addition, we seek comment on the relationship between such universal service reforms and carriers' rates, including intercarrier compensation rates, under the Commission's current pricing rules.

Comment: UEN believes that if funding remains available while driven by more relevant factors such as community need, carriers' rates for legacy services should become more competitive. Intercarrier compensation rates must consider the nature of broadband packet networks and the means of hand-off between/amongst carriers.

We suggest that the FCC look to the Open Systems Interconnection (OSI) Model for guidance about how to structure any new intercarrier compensation rates. For example, a rate may be defined by total "traffic" (as opposed to discrete connections) passing from one carrier to another, or it may be defined by the number of IP addresses or initiated sessions that are opened and routed between them. There are numerous scenarios based upon this model that, within a thoroughly broadband environment, could lead to the creation of a new, more appropriate method of calculating this outlay of USF.



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5. *Shifting Rate-of-Return Carriers to Incentive Regulation.*

We seek comment on whether, in an increasingly competitive marketplace, and with carriers' service offerings expanding beyond regulated services, the current rate-of-return framework, which considers only regulated costs and revenues, has become less appropriate.

Comment: UEN agrees at least conceptually with Incentive Regulation. Rate of return is too backward looking in this day and age.

6. We seek comment on whether we should convert ICLS to a frozen amount per line, which would have the effect of limiting growth in the legacy high-cost program. We seek comment on whether this reform should be implemented at the same time as any measures the Commission may adopt to provide targeted funding for the deployment of/ broadband-capable infrastructure to areas that are unserved, or should such a rule change occur before the development of the CAF, or otherwise be coordinated with some other regulatory action such as conversion to incentive regulation. The National Broadband Plan recognizes that the savings realized by eliminating future growth in the legacy ICLS program represent funding that could be redirected toward achieving broadband related goals. We seek comment on this proposal.

Comment: UEN agrees with any measure that can successfully limit growth in the high-cost program as it stands now. We would expect that elimination of ICLS for legacy high-cost may have a broadband equivalent when the majority of voice service has become packet based (VoIP). A three to five year period for this transition makes sense as well.

7. *Elimination of Interstate Access Support.*

The National Broadband Plan also recommends that the Commission ''redirect access replacement funding known as Interstate Access Support (IAS) toward broadband deployment.'' Thus, we now seek comment on the elimination of IAS. When the Commission created IAS in 2000, it said that it would

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[1] http://compnetworking.about.com/library/graphics/basics_osimodel.jpg

revisit this funding mechanism ''to ensure that such funding is sufficient, yet not excessive.'' That reexamination has not occurred.

8. Specifically, we now seek comment on eliminating §§ 54.800–54.809 of our rules and transferring any IAS funding levels as of the date of elimination to the new Connect America Fund to provide support for broadband-capable networks. We invite commenters to propose an appropriate timeline for the elimination of these rules and any glidepath that may be necessary to ensure that recipients continue to be able to provide voice services during the transition.

Comment: UEN agrees with the proposed elimination of IAS altogether, in favor of targeting these funds for broadband services and distribution via the new Connect America Fund.

II Procedural Matters

15. The National Broadband Plan recommends that the Commission take steps to manage the universal service fund so that its total size remains close to its current level (in 2010 dollars) to minimize the burden of increasing universal service contributions on consumers. The NPRM seeks comment on specific common-sense reforms to contain growth in the legacy high-cost support mechanisms and identify savings that can be shifted toward broadband. Specifically, the NPRM seeks comment on capping legacy highcost support provided to incumbent telephone companies at 2010 levels; shifting rate-of-return carriers to incentive regulation and converting interstate common line support to a frozen amount per line; eliminating interstate access support; and eliminating high-cost support for competitive eligible telecommunications carriers.

Comment: UEN believes that applying some of these common-sense reforms will result in much better targeting of these Universal Service funds. The growth in the high-cost mechanisms since 2001 is evidence enough of the need for substantive reform. We enthusiastically agree with the premise of the UCAN proposals and urge the FCC to strongly consider this model in structuring the CAF mechanism(s). Instituting this type of mechanism and allowing the needs of communities to factor into the distribution of USF, holds great promise for dramatic gains in broadband deployment and adoption.

Summary

We greatly appreciate the opportunity to submit comments to the FCC for this NPRM. We are extremely encouraged by the overall direction that the FCC is taking with regard to broadband for all Americans and the transparency of these processes. We hope that we may continue to be a part of this process and look forward to the results expected from the upcoming FCC orders.

Respectfully,

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